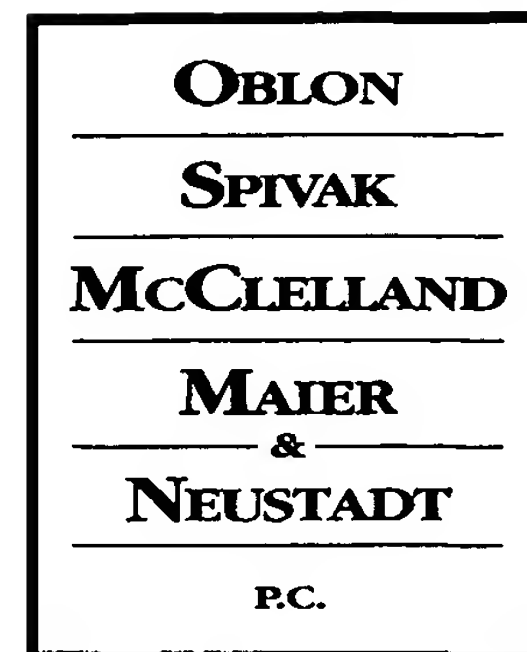




IFW



Docket No.: 241987US2S

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

ATTORNEYS AT LAW

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RE: Application Serial No.: 10/648,510

Applicants: Fumitaka ARAI, et al.

Filing Date: August 27, 2003

For: NONVOLATILE SEMICONDUCTOR MEMORY
DEVICE INCLUDING IMPROVED GATE
ELECTRODE

Group Art Unit: 2818

Examiner: HO, T.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters

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DOCKET NO. 241987US2S

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
FUMITAKA ARAI, ET AL : EXAMINER: HO, T.
SERIAL NO: 10/648,510 :
FILED: AUGUST 27, 2003 : GROUP ART UNIT: 2818
FOR: NONVOLATILE :
SEMICONDUCTOR MEMORY DEVICE
INCLUDING IMPROVED GATE
ELECTRODE

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election Requirement dated August 20, 2004, Applicants elect Species I, identified in the outstanding Official Action as corresponding to Figures 1-6, for further examination on the merits. Applicants identify Claims 1-7 and 24 as readable on the elected species. Applicants reserve the right to file one or more divisional applications directed to the non-elected species.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct species, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

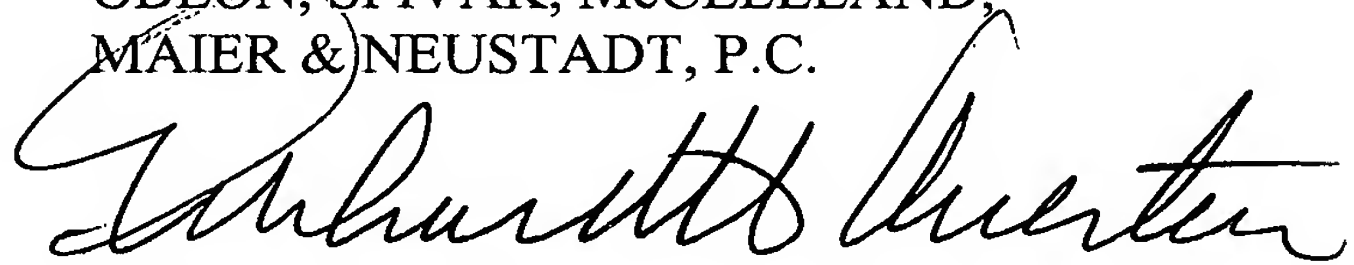
Although the outstanding Official Action does not identify search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may

be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-39 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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